

EXHIBIT 38



**U.S. Department of Justice
Memorandum
Federal Bureau of Prisons**

Correctional Programs Division

*Central Office
320 First Street, N.W.
Washington, DC 20534*

MEMORANDUM FOR CHIEF EXECUTIVE OFFICERS

APR 3 2020

FROM: Andre Matevousian, Acting Assistant Director
Correctional Programs Division

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Date: 2020.04.03 12:23:46 -04'00'
Hugh J. Hurwitz, Assistant Director
Reentry Services Division

SUBJECT: Home Confinement

In an effort to protect the health and safety of staff and inmates during the COVID-19 pandemic, it has become imperative to review at-risk inmates for placement on home confinement. Sample rosters are attached to aid in the identification of inmates who may be eligible for home confinement, based on the memorandum from the Attorney General (AG) dated March 26, 2020 and the Elderly Offender Pilot program. Inmates must be reviewed utilizing the Elderly Offender Home Confinement program criteria and the discretionary factors listed in the AG's memo. Additionally, pregnant inmates should be considered for viability of placement in Community Program to include Mothers and Infants Together (MINT) programs and Home Confinement.

All inmates must be reviewed by the SIS Department at the referring facility to determine if the inmate has engaged in violent or gang-related activity in prison. Additionally, inmates must have maintained clear conduct for the past 12 months to be eligible.

Referrals must be based on appropriateness for home confinement. Consideration should be given to whether the inmate has a demonstrated a verifiable reentry plan that will prevent recidivism and maximize public safety, including verification by

Health Services staff that the conditions under which the inmate would be confined upon release would present a lower risk of contracting COVID-19 than the inmate would face in his or her BOP facility.

Unit Management staff will ensure each inmate submitted for Home Confinement has a viable release residence. Staff will submit the Supervised Release Plan and other necessary documentation to the United States Probation Office (USPO) in the release district. Staff need not receive USPO approval prior to submitting the referral for Home Confinement, even if a request for relocation has been submitted. The approval letter will be forwarded to the appropriate RRM once received from the USPO. The following information must be clearly documented on the referral for Home Confinement prior to submission to the RRM Office:

- The structural type of release residence (house, apartment, group home, etc.)
- The name and relationship of the individual with whom the inmate will be residing
- Information regarding health concerns of any of the individuals living at the release residence
- Valid contact telephone number(s) for the inmate if he/she should be placed on Home Confinement
- The specific transportation plan detailing how the inmate will be transferred to the Home Confinement location

Inmates determined to have viable release residences will be screened by Health Services staff to determine if frequent and on-going medical care is required within the next 90 days. If frequent and on-going medical care is required, the following actions will be taken:

- Health Services staff will coordinate with Naphcare and the Residential Reentry Management Branch's (RRMB) Health Services Specialists to determine if the inmate's medical needs can be met in the community at this time. Naphcare will set up follow up care prior to the inmate's transfer out of the facility. The inmate must transfer with **at least** a 90-day supply of any prescribed medication(s).
- If the inmate's medical needs cannot be met in the community at this time, the inmate will remain at his/her current BOP facility.

If frequent and on-going medical care is not required, the referral for Home Confinement will be processed.

Inmates being referred for home confinement due to the COVID-19 pandemic must have the Case Management Activity (CMA) assignment of **CV-COM-REF** loaded into SENTRY. If the inmate is denied at the institution or RRM level the CMA assignment of **COV-HC-DENY** must be loaded.

Case Management Coordinators must track all inmates deemed ineligible for Home Confinement or the Elderly Offender Pilot Program. The attached form should be used to record this information and must be forwarded via e-mail to the Correctional Programs Branch, via GroupWise to BOP-CPD/Unit Management. This report must be forwarded on a weekly basis and is due every Monday by 2:00 PM (EST).

If you have any questions, please contact David Brewer, Acting Senior Deputy Assistant Director, Correctional Programs Division, at (202)353-3638.